

(i) *Affiliated foreign person* means, with respect to a given U.S. person—

(1) A foreign affiliate of which the U.S. person is a U.S. parent; or

(2) The foreign parent or other member of the affiliated foreign group of which the U.S. person is a U.S. affiliate.

(j) *Parent* means a person of one country who directly or indirectly, owns or controls 10 per centum or more of the voting stock of an incorporated business enterprise, or an equivalent ownership interest in an unincorporated business enterprise, which is located outside that country.

(k) *Affiliate* means a business enterprise located in one country which is directly or indirectly owned or controlled by a person of another country to the extent of 10 per centum or more of its voting stock for an incorporated business or an equivalent interest for an unincorporated business, including a branch.

(l) *U.S. parent* means the U.S. person that has direct investment in a foreign business enterprise.

(m) *Foreign affiliate* means an affiliate located outside the United States in which a U.S. person has direct investment.

(n) *Foreign parent* means the foreign person, or the first person outside the United States in a foreign chain of ownership, which has direct investment in a U.S. business enterprise, including a branch.

(o) *U.S. affiliate* means an affiliate located in the United States in which a foreign person has a direct investment.

(p) *Affiliated foreign group* means—

(1) The foreign parent;

(2) Any foreign person, proceeding up the foreign parent's ownership chain, which owns more than 50 per centum of the person below it up to and including that person which is not owned more than 50 per centum by another foreign person; and

(3) Any foreign person, proceeding down the ownership chain(s) of each of these members, which is owned more than 50 per centum by the person above it.

#### § 801.8 Miscellaneous.

(a) *Required information not available.* All reasonable efforts should be made

to obtain information required for reporting. Every applicable question on each form or schedule should be answered. When only partial information is available, an appropriate indication should be given.

(b) *Estimates.* If actual figures are not available, estimates should be supplied and labeled as such. When a data item cannot be fully subdivided as required, a total and an estimated breakdown of the total should be supplied.

(c) *Specify.* When "specify" is included in certain data items, the type and dollar amount of the major items included must be given for at least the items mentioned in the line or column instruction.

(d) *Space on form insufficient.* When space on a form is insufficient to permit a full answer to any item, the required information should be submitted on supplementary sheets, appropriately labeled and referenced to the item of column number and the form.

(e) *Extensions.* Requests for an extension of a reporting deadline will not normally be granted. However, in a hardship case, a written request for an extension will be considered provided it is received at least 15 days prior to the due date of the report and enumerates substantive reasons necessitating the extension.

(f) *Number of copies.* A single original copy of each form or schedule shall be filed with the Bureau of Economic Analysis. This should be the copy with the address label if such a labeled copy has been provided. In addition, each respondent must retain a copy of its report to facilitate resolution of problems. Both copies are protected by law; see § 801.5.

(g) *Other.* Instructions concerning filing dates, where to send reports, and whom to contact concerning a given report are contained on each form.

#### § 801.9 Reports required.

(a) *Benchmark surveys.* Section 4(a)(4) of the Act (22 U.S.C. 3103) provides that benchmark surveys of trade in services between U.S. and unaffiliated foreign persons be conducted, but not more frequently than every 5 years. General reporting requirements, exemption levels, and the year of coverage of the BE-

## § 801.9

## 15 CFR Ch. VIII (1–1–07 Edition)

20 survey may be found in § 801.10, and general reporting requirements, exemption levels, and the year of coverage of the BE-80 survey may be found in § 801.11. More detailed instructions are given on the forms themselves.

(b) *Annual surveys.* (1) BE-29, Foreign Ocean Carriers' Expenses in the United States:

(i) *Who must report.* A BE-29 report is required from U.S. agents on behalf of foreign ocean carriers transporting freight or passengers to or from the United States. U.S. agents are steamship agents and other persons representing foreign carriers in arranging ocean transportation of freight and cargo between U.S. and foreign ports and in arranging port services in the United States. Foreign carriers are foreign persons that own or operate ocean going vessels calling at U.S. ports, including VLCC tankers discharging petroleum offshore to pipelines and lighter vessels destined for U.S. ports. They include carriers who own or who operate their own or chartered (United States or foreign-flag) vessels. They also include foreign subsidiaries of U.S. companies operating their own or chartered vessels as carriers for their own accounts. Where the vessels under foreign registry are operated directly by a U.S. carrier for its own account, the operations of such vessels should be reported on Form BE-30, Ocean Freight Revenues and Foreign Expenses of United States Carriers. The Bureau of Economic Analysis may, in lieu of BE-29 reports required from foreign carriers' U.S. agents, accept consolidated reports from foreign governments covering the operations of their national shipping concerns when, in the Bureau's discretion, such consolidated reports would provide the required information. Where such reports are accepted, the individual reports from foreign carriers' U.S. agents will not be required.

(ii) *Exemption.* Any U.S. person otherwise required to report is exempted from reporting if the total number of port calls by foreign vessels handled in the reporting period is less than forty or total covered expenses are less than \$250,000. For example, if an agent handled less than 40 port calls in a calendar year, the agent is exempted from

reporting. If the agent handled 40 or more calls, the agent must report unless covered expenses for all foreign carriers handled by the agent were less than \$250,000. The determination of whether a U.S. person is exempt may be based on the judgment of knowledgeable persons who can identify reportable transactions without conducting a detailed manual records search.

(2) BE-22, Annual Survey of Selected Services Transactions With Unaffiliated Foreign Persons:

(i) *Who must report—(A) Mandatory reporting.* A BE-22 report is required from each U.S. person who had transactions (either sales or purchases) in excess of \$1,000,000 with unaffiliated foreign persons in any of the covered services during the U.S. person's fiscal year. The determination of whether a U.S. person is subject to this mandatory reporting requirement may be judgmental, that is, based on the judgment of knowledgeable persons in a company who can identify reportable transactions on a recall basis, with a reasonable degree of certainty without conducting a detailed manual records search.

(B) *Voluntary reporting.* If, during the U.S. person's fiscal year, the U.S. person's total transactions (either sales or purchases) in any of the covered services is \$1,000,000 or less, the U.S. person is requested to provide an estimate of the total for each type of service. Provision of this information is voluntary. The estimates may be judgmental, that is, based on recall, without conducting a detailed manual records search.

(C) Any U.S. person receiving a BE-22 survey form from BEA must complete all relevant parts of the form and return the form to BEA. A person that is not subject to the mandatory reporting requirement in paragraph (b)(2)(i)(A) of this section and is not filing information on a voluntary basis must only complete the "Determination of reporting status" and the "Certification" sections of the survey. This requirement is necessary to ensure compliance with the reporting requirements and efficient administration of the survey by eliminating unnecessary followup contact.

(ii) *Covered services.* The covered services are: Advertising services; auxiliary

insurance services (by non-insurance companies only); educational and training services; financial services (purchases only by non-financial services providers); medical services, inpatient (receipts only); medical services, other than inpatient (receipts only); merchanting services (receipts only); mining services; disbursements to fund news-gathering costs of broadcasters; disbursements to fund news-gathering costs of print media; disbursements to fund productions costs of motion pictures; disbursements to fund production costs of broadcast program material other than news; disbursements to maintain government tourism and business promotion offices; disbursements for sales promotion and representation; disbursements to participate in foreign trade shows (purchases only); other trade-related services; performing arts, sports, and other live performances, presentations, and events; primary insurance premiums (payments only); primary insurance losses recovered; sale or purchase of rights to natural resources, and lease bonus payments; use or lease of rights to natural resources, excluding lease bonus payments; waste treatment and depollution services; and other private services (language translation services; salvage services; security services; account collection services; satellite photography and remote sensing/satellite imagery services; space transport (includes satellite launches, transport of goods and people for scientific experiments, and space passenger transport); and transcription services).

(c) *Quarterly surveys.* (1) BE-30, Ocean Freight Revenues and Foreign Expenses of United States Carriers:

(i) *Who must report.* A BE-30 report is required from U.S. carriers, *i.e.*, from U.S. persons that own or operate dry cargo, passenger (including combination), and tanker vessels regardless of whether the vessels are registered in the United States or in foreign countries. Operators are persons who enter into any form of transportation contract with shippers of merchandise (or their agents) for the transportation of freight and cargo between U.S. and foreign ports or between foreign ports, whether on the operators' own vessels or chartered vessels.

(ii) *Exemption.* A U.S. person otherwise required to report is exempted from reporting if total annual covered revenues (*i.e.*, revenues on outbound, cross-trade, and inbound cargoes and charter hire received) and total annual covered expenses (*i.e.*, charter hire paid and expenses in foreign countries) are, or are expected to be, each less than \$500,000. If either total annual covered revenues or total annual covered expenses are, or are expected to be, \$500,000 or more, a report must be filed.

(2) BE-37, U.S. Airline Operators' Foreign Revenues and Expenses:

(i) *Who must report.* A BE-37 report is required from all U.S. airline operators engaged in transportation of passengers and freight to and from the United States or between foreign points.

(ii) *Exemption.* A U.S. person otherwise required to report is exempted from reporting if total annual covered revenues (*i.e.*, revenues from carrying U.S. export freight to foreign countries) and total annual covered expenses (*i.e.*, expenses incurred outside the United States and aircraft leasing expenses) are, or are expected to be, each less than \$500,000. If either total annual covered revenues or total annual covered expenses are, or are expected to be, \$500,000 or more, a report must be filed.

(3) BE-9, Quarterly Survey of Foreign Airline Operators' Revenues and Expenses in the United States:

(i) *Who must report.* A BE-9 report is required from U.S. offices, agents, or other representatives of foreign airlines that are engaged in transporting passengers or freight and express to or from the United States. If the U.S. office, agent, or other representative does not have all the information required, it must obtain the additional information from the foreign airline operator.

(ii) *Exemption.* A U.S. person otherwise required to report is exempt from reporting if total annual covered revenues and total annual covered expenses incurred in the United States were each less than \$5 million during the previous year and are expected to be less than \$5 million during the current year. If either total annual covered

revenues or total annual covered expenses were or are expected to be \$5 million or more, a report must be filed.

(4) BE-85, Quarterly Survey of Financial Services Transactions Between U.S. Financial Services Providers and Unaffiliated Foreign Persons:

(i) A BE-85, Quarterly Survey of Financial Services Transactions Between U.S. Financial Services Providers and Unaffiliated Foreign Persons, will be conducted covering the first quarter of the 2004 calendar year and every quarter thereafter.

(A) *Who must report—(1) Mandatory reporting.* Reports are required from each U.S. person who is a financial services provider or intermediary, or whose consolidated U.S. enterprise includes a separately organized subsidiary or part that is a financial services provider or intermediary, and that had sales of covered services to unaffiliated foreign persons that exceeded \$20 million for the previous fiscal year or expects sales to exceed that amount during the current fiscal year, or had purchases of covered services from unaffiliated foreign persons that exceeded \$15 million for the previous fiscal year or expects purchases to exceed that amount during the current fiscal year. These thresholds should be applied to financial services transactions with unaffiliated foreign persons by all parts of the consolidated U.S. enterprise combined that are financial services providers or intermediaries. Because the thresholds are applied separately to sales and purchases, the mandatory reporting requirement may apply only to sales, only to purchases, or to both sales and purchases.

(i) The determination of whether a U.S. financial services provider or intermediary is subject to this mandatory reporting requirement may be based on the judgement of knowledgeable persons in a company who can identify reportable transactions on a recall basis, with a reasonable degree of certainty, without conducting a detailed manual records search.

(ii) Reporters who file pursuant to this mandatory reporting requirement must provide data on total sales and/or purchases of each of the covered types of financial services transactions and

must disaggregate the totals by country.

(2) *Voluntary reporting.* If a financial services provider or intermediary, or all of a firm's subsidiaries or parts combined that are financial services providers or intermediaries, had covered sales of \$20 million or less, or covered purchases of \$15 million or less during the previous fiscal year, and if covered sales or purchases are not expected to exceed these amounts in the current fiscal year, a person is requested to provide an estimate of the total for each type of service for the most recent quarter. Provision of this information is voluntary. The estimates may be based on the reasoned judgement of the reporting entity. Because these thresholds apply separately to sales and purchases, voluntary reporting may apply only to sales, only to purchases, or to both.

(B) *BE-85 definition of financial services provider.* The definition of financial services provider used for this survey is identical in coverage to Sector 52—Finance and Insurance—of the North American Industry Classification System, United States, 2002. For example, companies and/or subsidiaries and other separable parts of companies in the following industries are defined as financial services providers: Depository credit intermediation and related activities (including commercial banking, holding companies, savings institutions, check cashing, and debit card issuing); nondepository credit intermediation (including credit card issuing, sales financing, and consumer lending); securities, commodity contracts, and other financial investments and related activities (including security and commodity futures brokers, dealers, exchanges, traders, underwriters, investment bankers, and providers of securities custody services); insurance carriers and related activities (including agents, brokers, and services providers); investment advisors and managers and funds, trusts, and other financial vehicles (including mutual funds, pension funds, real estate investment trusts, investors, stock quotation services, etc.).

(C) *Covered types of services.* The BE-85 survey covers the following types of

financial services transactions (purchases and/or sales) between U.S. financial services providers and unaffiliated foreign persons: Brokerage services, including foreign exchange brokerage services; underwriting and private placement services; financial management services; credit-related services, except credit card services; credit card services; financial advisory and custody services; security lending services; electronic funds transfers; and other financial services.

(ii) [Reserved]

(5) BE-45, Quarterly Survey of Insurance Transactions by U.S. Insurance Companies with Foreign Persons:

(i) A BE-45, Quarterly Survey of Insurance Transactions by U.S. Insurance Companies with Foreign Persons, will be conducted covering the first quarter of the 2004 calendar year and every quarter thereafter.

(A) *Who must report—(1) Mandatory reporting.* Reports are required from each U.S. insurance company whose covered transactions with foreign persons exceeded \$8 million for the previous fiscal year or are expected to exceed that amount during the current fiscal year. This threshold is applied separately to each of the eight individual types of transactions covered by the survey rather than to the sum of the data for all eight types combined. Quarterly reports for a year may be required retroactively when it is determined that the exemption level has been exceeded.

(2) *Voluntary reporting.* Reports are requested from each U.S. insurance company whose covered transactions with foreign persons were \$8 million or less for the previous fiscal year and are not expected to exceed the \$8 million amount during the current fiscal year. Provision of this information is voluntary. The estimates may be based on recall, without conducting a detailed records search.

(B) Any person receiving a BE-45 survey form from BEA must complete all relevant parts of the form and return the form to BEA. A person not subject to the mandatory reporting requirement in paragraph (c)(5)(i)(A) of this section and is not filing information on a voluntary basis must only complete the “Determination of reporting sta-

tus” and the “Certification” sections of the survey. This requirement is necessary to ensure compliance with the reporting requirements and efficient administration of the survey by eliminating unnecessary followup contact.

(C) *Covered insurance transactions.* The transactions covered by this survey are: reinsurance premiums received, reinsurance premiums paid, reinsurance losses paid, reinsurance losses recovered, primary insurance premiums received, primary insurance losses paid, auxiliary insurance services receipts, and auxiliary insurance services payments. (Auxiliary insurance services include agent’s commissions, insurance brokering and agency services, insurance consulting services, evaluation and adjustment services, actuarial services, salvage administration services, and regulatory and monitoring services on indemnities and recovery services.)

(ii) [Reserved]

(6) BE-25, Quarterly Survey of Transactions with Unaffiliated Foreign Persons in Selected Services and in Intangible Assets:

(i) A BE-25, Quarterly Survey of Transactions with Unaffiliated Foreign Persons in Selected Services and in Intangible Assets, will be conducted covering the first quarter of the 2004 calendar year and every quarter thereafter.

(A) *Who must report—(1) Mandatory reporting.* Reports are required from each U.S. person that:

(a) Had sales of covered services to unaffiliated foreign persons that exceeded \$6 million for the previous fiscal year or are expected to exceed that amount during the current fiscal year; or (b) had purchases of covered services from unaffiliated foreign persons that exceeded \$4 million for the previous fiscal year or are expected to exceed that amount during the current fiscal year. Because the thresholds are applied separately to sales and purchases, the mandatory reporting requirement may apply only to sales, only to purchases, or to both sales and purchases. Quarterly reports for a year may be required retroactively when it is determined that the exemption level has been exceeded.

## § 801.10, Note

## 15 CFR Ch. VIII (1–1–07 Edition)

(2) *Voluntary reporting.* Reports are requested from each U.S. person that had sales of covered services to unaffiliated foreign persons that were \$6 million or less for the previous fiscal year and are expected to be less than or equal to that amount during the current fiscal year, or had purchases of covered services from unaffiliated foreign persons that were \$4 million or less for the previous fiscal year and are expected to be less than or equal to that amount during the current fiscal year. Provision of this information is voluntary. The estimates may be based on recall, without conducting a detailed records search. Because these thresholds apply separately to sales and purchases, voluntary reporting may apply only to sales, only to purchases, or to both.

(B) Any person receiving a BE-25 survey form from BEA must complete all relevant parts of the form and return the form to BEA. A person that is not subject to the mandatory reporting requirement in paragraph (c)(6)(i)(A) of this section and is not filing information on a voluntary basis must only complete the “Determination of reporting status” and the “Certification” sections of the survey. This requirement is necessary to ensure compliance with the reporting requirements and efficient administration of the survey by eliminating unnecessary followup contact.

(C) *Covered services and intangible assets.* The services covered by this survey are: Accounting, auditing, and bookkeeping services; computer and data processing services; construction services; foreign expenses related to construction projects; data base and other information services; engineering, architectural, and surveying services; industrial engineering services; industrial-type maintenance, installation, alteration, and training services; legal services; management, consulting, and public relations services; operational leasing services; research, development, and testing services; and telecommunication services. The intangible assets covered by this survey are rights related to: industrial processes and products; books, compact discs, audio tapes and other copyrighted material and intellectual prop-

erty; trademarks, brand names, and signatures; performances and events pre-recorded on motion picture film and television tape, including digital recording; broadcast and recording of live performances and events; general use computer software; business format franchising fees; and other intangible assets, including infeasible rights of users.

(ii) [Reserved]

[51 FR 7772, Mar. 6, 1986, as amended at 59 FR 53935, Oct. 27, 1994; 68 FR 69956, Dec. 16, 2003; 68 FR 75409, 75411, Dec. 31, 2003; 69 FR 50064, Aug. 13, 2004; 70 FR 48271, Aug. 17, 2005]

### § 801.10, Note Rules and regulations for the BE-20, Benchmark Survey of Selected Services Transactions with Unaffiliated Foreign Persons.

The BE-20, Benchmark Survey of Selected Services Transactions with Unaffiliated Foreign Persons, will be conducted covering companies’ 2001 fiscal year and every fifth year thereafter. All legal authorities, provisions, definitions, and requirements contained in §§ 801.1 through 801.9(a) are applicable to this survey. Additional rules and regulations for the BE-20 survey are given in this section. More detailed instructions and descriptions of the individual types of services covered are given on the report form itself.

(a) The BE-20 survey consists of two parts and seven schedules. Part I requests information needed to determine whether a report is required and which schedules apply. Part II requests information about the reporting entity. Each of the seven schedules covers one or more types of services and is to be completed only if the U.S. Reporter has transactions of the type(s) covered by the particular schedule.

(b) *Who must report—(1) Mandatory reporting.* A BE-20 report is required from each person who had transactions (either sales or purchases) in excess of \$1 million with unaffiliated foreign persons in any of the services listed in paragraph (c) of this section during its fiscal year covered by the survey.

(i) The determination of whether a U.S. person is subject to this mandatory reporting requirement may be judgmental, that is, based on the judgement of knowledgeable persons in a company who can identify reportable